



Agenda Date: 03/16/06
Agenda Item: VA

STATE OF NEW JERSEY

**Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us**

IN THE MATTER OF THE PETITION OF)
AQUA NEW JERSEY INC. FOR)
APPROVAL OF A MUNICIPAL CONSENT TO)
PROVIDE WATER SERVICE TO PORTIONS OF)
THE BOROUGH OF PINE HILL)

WATER

ORDER

DOCKET NO. WE05070581

(Service List Attached)

BY THE BOARD:

On July 1, 2005, Aqua New Jersey, Inc. ("Aqua NJ" or "Company") filed a petition with the Board of Public Utilities ("Board") for approval of a municipal consent by the Borough of Pine Hill ("Borough" or "Pine Hill"), Camden County, New Jersey granting a franchise to Aqua NJ to provide water services to certain portions within Pine Hill.

Aqua NJ, formerly Consumers New Jersey Water Company, is a wholly owned subsidiary of Aqua America, Inc., formerly the Philadelphia Suburban Water Corporation. Aqua America, Inc. is the holding company for water and wastewater utilities that, together with the Company, serve approximately 2.5 million residents in 13 states. Aqua NJ provides water and/or wastewater service through its several divisions located throughout the State. Service is provided to approximately 44,000 customers in 17 municipalities located in the counties of Warren, Hunterdon, Burlington, Monmouth, Camden, and Gloucester.

As part of the Company's on-going efforts to serve its existing franchise area in Gloucester Township, the Company constructed a water line on Little Mill Road to the intersection of Blackwood-Clementon Road in Gloucester Township. The specific purpose of the project was to allow water service to the Hidden Mills Development. The Little Mill Road project costs of \$227,235 were funded by the developer. The construction of the water line is in close proximity to a non-serviced cul-de-sac, Carol Drive, in Pine Hill.

There are 22 single-family homes located along the pipeline route with nine of these homes located on Carol Drive. The homes on Carol Drive are within the franchise area of the Pine Hill Borough Municipal Utilities Authority ("MUA") but are not served by the MUA and receive water service from private wells. Aqua NJ entered into an agreement with the MUA for the extension of a line along Carol Drive for the provision of water service to those homes, if requested by the individual homeowner. On April 15, 2004, the MUA adopted a resolution granting a municipal

consent to Aqua NJ authorizing Aqua NJ to provide water service to Carol Drive. Subsequently on November 15, 2004, the Company obtained the consent of the Borough to provide water service to an area along Little Mill Road and Carol Drive. The cost to the Company for the Carol Drive main extension totaled \$37,999.

On January 12, 2006, a public hearing on the petition by Aqua NJ was held at the Board's office in Newark, New Jersey, before the Board's designated hearing officer, Joseph F. Quirolo, Esq.

Little Mill Road is the boundary between Gloucester Township and Pine Hill Borough. The Company's existing franchise area includes Gloucester Township but not the Borough of Pine Hill. Carol Drive is located entirely within Pine Hill. The water line installed on Carol Drive is not necessary to service the Hidden Mills Development. In arriving at an agreement with the Borough regarding the installation of the water main along Little Mill Road, the Company offered to provide service to existing residents on Little Mill Road and Carol Drive. The MUA has agreed to allow Aqua NJ to service this area and the MUA has entered into a service agreement with the Company to memorialize this arrangement. This agreement allows Aqua NJ to service any of the 22 single-family homes located along the pipeline route who request service. Connection to Aqua NJ's system is not mandatory. In addition, if at any point in the future the MUA decides to install its own water main in the area covered by the agreement, Aqua NJ must relinquish the customers to the MUA on 180 days written notice. Any customers who elect to connect to the Aqua NJ system will be serviced by Aqua NJ and charged tariff rates approved by the Board.

The Carol Drive extension has a potential for serving nine residential customers and one public fire hydrant. If all nine customers connect, annual revenues from fixed service charges and volumetric sales would total \$3,309.79 and the annual charge for the one fire hydrant would bring annual revenues to a total of \$3,912.79. The Company could refund a maximum of ten times the annual revenue or \$39,127.92. This amount exceeds the cost of \$37,999 paid by the Company. Carol Drive is in State Planning Area PA-2.

Based on a review of the record to this proceeding, the Board **HEREBY APPROVES** the municipal consent granted to Aqua New Jersey, Inc. for the provision of water service by the Borough of Pine Hill as sought in Aqua New Jersey's petition.


The approvals granted, hereinabove, shall be subject to the following provisions:


1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by Aqua New Jersey Inc.
2. This Order shall not effect now in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting Aqua New Jersey Inc.
3. In an appropriate subsequent proceeding, the Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers. Approval of this municipal consent does not include authorization to include in rate base the specific assets that are or will be completed as a result of the new service territory.

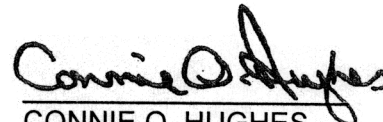
4. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such cost and expenses, shall be made in an appropriate subsequent proceeding:

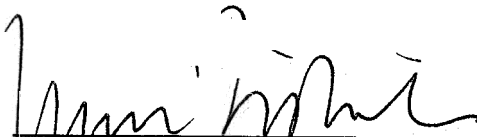
DATED: 3/22/06

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

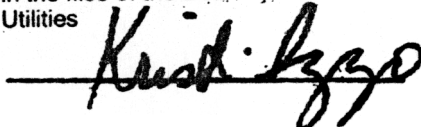

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



**I/M/O the Petition of Aqua New Jersey Water Company
Docket No. WE05070581**

SERVICE LIST

Stephen B. Genzer, Esq.
Collen A. Foley, Esq.
Saul Ewing LLP
One Riverfront Plaza, 5th Floor
Newark, NJ 07102

William C. Packer, Jr.
Aqua New Jersey, Inc.
10 Black Forest Road
Hamilton, NJ 08691

Maria L. Moran
Rupal Patel
Division of Water
Board of Public Utilities
Two Gateway Center

Seema M Singh, Esquire
Susan McClure, Esquire
Division of the Ratepayer Advocate
31 Clinton Street, 11th Floor
Newark, NJ 07101

Sharon Schulman
President
Aqua New Jersey, Inc
10 Black Forest Road
Hamilton, NJ 08691

David R. DeGerolamo
Aqua New Jersey, Inc.
1099 River Road
Phillipsburg, NJ 08865

Carla V. Bello, SDAG
Dept. of Law & Public Safety
Division of Law
124 Halsey St., 5th Floor
Newark, NJ 07101

**PINE HILL BOROUGH MUNICIPAL UTILITIES AUTHORITY
COUNTY OF CAMDEN
STATE OF NEW JERSEY**

Resolution

WHEREAS, A RESOLUTION OF THE PINE HILL BOROUGH MUNICIPAL UTILITIES AUTHORITY IN THE COUNTY OF CAMDEN AND STATE OF NEW JERSEY, GRANTING MUNICIPAL CONSENT TO **AQUA NEW JERSEY, INC.** TO CONSTRUCT, MAINTAIN AND OPERATE A WATER WORKS DISTRIBUTION SYSTEM IN A DESIGNATED AREA OF THE BOROUGH OF PINE HILL, FOR THE PURPOSE OF SUPPLYING, DISTRIBUTING AND SELLING WATER IN SAID AREA FOR RESIDENTIAL, COMMERCIAL AND/OR INDUSTRIAL USE AND CONSENTING FOR AQUA NEW JERSEY, INC. TO INSTALL MAINS, PIPES, LATERALS, SERVICE CONNECTIONS, BLOW-OFFS AND OTHER APPARATUS OR EQUIPMENT IN AND BELOW THE SURFACE OF THE STREETS, ROADS, HIGHWAYS OR PUBLIC PLACES NOW EXISTING OR HEREAFTER ACCEPTED BY THE BOROUGH OF PINE HILL AND LOCATED IN THE SAID AREA OF THE BOROUGH OF PINE HILL AS MAY BE NECESSARY TO FURNISH AND SUPPLY WATER AS AFORESAID.

WHEREAS, the Borough Council of the Borough of Pine Hill ("Borough") has created and established the Pine Hill Borough Municipal Utilities Authority ("Authority") has been ordered pursuant to N.J.S.A. 40:14B-1 et seq. to provide, *inter alia*, water service to the residents of the Borough of Pine Hill; and

WHEREAS, the Authority has negotiated an Agreement with Aqua New Jersey, (Inc.) ("Aqua") to permit Aqua to extend its water distribution system into an area of the Borough

which is not serviced by the Authority in order to supply, distribute and sell water to users in said Area, this area being more fully described on Exhibit "A" attached hereto and identified as the "Franchise Area" and said Agreement attached hereto and incorporated by reference herein; and

WHEREAS, in order for Aqua to be permitted to extend its water distribution system into said Franchise Area it is necessary for the Authority to provide its Municipal consent pursuant N.J.S.A. 48:19-17.

NOW, THEREFORE, BE IT RESOLVED by the Chairman and Board Members of the Pine Hill Borough Municipal Utilities Authority as follows:

A. The Authority hereby approves the Agreement with Aqua which is attached hereto.

B. Pursuant to N.J.S.A. 40A:19-17 the Authority hereby provides its Municipal Consent to Aqua New Jersey, Inc. to construct, operate, maintain and manage a water works and distribution system within the limits of the Borough of Pine Hill to service an area of land , and which is more particularly described on Exhibit "A" attached hereto and identified as the "Franchise Area".

C. Municipal consent is also given to Aqua without impairment or obstruction to the public use of the roads, streets, avenues and highways of this Franchise Area, for it to install, construct, operate and maintain the connections necessary for the water supply and distribution system for the purpose of supplying and furnishing water service to the residential, commercial or industrial uses within the said Area.

D. The aforesaid Municipal Consent is expressly conditioned upon Aqua complying with all the rules and regulations of the New Jersey Department of Environmental

Protection, the New Jersey Board of Public Utilities, such other statutes and regulations to Public Water Companies, as well as, the Ordinances of the Borough of Pine Hill and the Rules and Regulations of the Pine Hill Borough Municipal Utilities Authority.

E. Subject to the provisions stated herein, Aqua shall have the right and privilege of laying connecting pipe from its main to properties along said streets, avenues, parks, parkways, highways and other public places now or hereafter constructed within the above-described Franchise Area, provided such private and/or public lands or facilities are restored as soon as possible to their pre-existing condition or better, as reasonably possible.

BE IT FURTHER RESOLVED that this Resolution is subject to:

A. An Ordinance adopted by the Borough Council providing its Municipal Consent for said Franchise Area.

B. Aqua executing the Agreement with the Authority providing for the Franchise Area.

BE IT FURTHER RESOLVED that the appropriate Authority officials are hereby authorized to sign the Agreement with Aqua upon satisfaction of the above conditions.


ROBERT A. WHIPPS, CHAIRMAN

11

Certified to be a true copy of a Resolution adopted by the Pine Hill Borough Municipal Utilities Authority at its regular meeting held on ,2004, at the Authority Administrative Office Building.

Dated: October 21, 2004

**PINE HILL BOROUGH MUNICIPAL UTILITIES AUTHORITY
COUNTY OF CAMDEN
STATE OF NEW JERSEY**

Resolution

04-41

WHEREAS, the *Pine Hill Borough Municipal Utilities Authority* ("*Authority*") is duly organized and existing under the laws of the State of New Jersey for the purpose, among others of constructing, maintaining and operating a Municipal Water System; and

WHEREAS, *Aqua New Jersey, Inc.* ("*Aqua*") is a private water company organized and existing under the laws of the State of New Jersey receiving its franchise pursuant to the Rules and Regulations of the Board of Public Utilities for the purpose, among others, of constructing, maintaining and operating a private Water System; and

WHEREAS, *Aqua* is planning to construct a water line on Little Mill Road to the intersection of Blackwood-Clementon Road to service Properties in the Township of Gloucester; and

WHEREAS, in discussions with the *Authority*, *Aqua* has indicated a willingness to provide service to residents of the Borough of Pine Hill situated on the opposite side of Little Mill Road and to extend this Water Main along Carol Drive in the Borough to Pine Hill to provide water service to these residents since the *Authority* does not presently have the ability to provide public water service to this area, said area particularly described on Exhibit "A" attached hereto; and

WHEREAS, the *Authority* has no objection to authorizing *Aqua* to provide water service to these residents within the jurisdiction of the *Authority* and has negotiated a *Water Service Agreement* with *Aqua* for this purpose, said *Agreement* attached hereto and incorporated by reference herein.

6

NOW, THEREFORE, BE IT RESOLVED by the Chairman and Board Members of the Pine Hill Borough Municipal Utilities Authority that it hereby *approves the Water Service Agreement with Aqua New Jersey, Inc.* which is attached hereto and incorporated by reference herein, subject to the following conditions:

1. Preparation of Exhibit "A" to be attached to the Agreement which will identify the area to be serviced by Aqua.
2. Aqua providing proof of authorization from all necessary regulatory agencies giving it the right to provide water service to this Area of the Borough of Pine Hill.
3. An approving Resolution from the Mayor and Borough Council of the Borough of Pine Hill consenting to this Agreement.

BE IT FURTHER RESOLVED that upon satisfaction of the above conditions that the appropriate Authority officials are authorized to sign this *Agreement*.

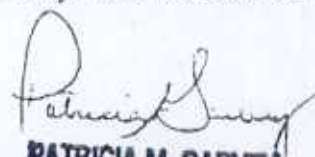

DEBRA CORSON, RECORDING SECRETARY


ROBERT A. WHIPPS, CHAIRMAN

Adopted: ~~March 18, 2004~~
April 15, 2004 bc

Certified to be a true copy of a Resolution adopted by the Pine Hill Borough Municipal Utilities Authority at its regular meeting held on ~~March 18, 2004~~, at the Authority Administrative Office Building.
April 15, 2004 bc


DEBRA CORSON, RECORDING SECRETARY


PATRICIA M. GARVEY
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 02/25/09

Dated: 4/15/04

Water Service Agreement

THIS AGREEMENT made this 31 day of December, 2004 by and between **The Pine Hill Borough Municipal Utilities Authority**, a body corporate and politic of the State of New Jersey with its office at 907 Turnerville Road, Pine Hill, New Jersey 08021 (hereinafter referred to as "**Authority**") and **Aqua New Jersey, Inc. (f/k/a Consumers Water Company)**, with its address at 2875 Erial Road, Erial, New Jersey 08081 (hereinafter referred to as "**Aqua**").

WITNESSETH

WHEREAS, the **Authority** is duly organized and existing under the laws of the State of New Jersey for the purpose, among others of constructing, maintaining and operating a Municipal Water Distribution System; and

WHEREAS, **Aqua** is a New Jersey Public Utility Corporation organized and existing under the laws of the State of New Jersey receiving its Franchise pursuant to the Rules and Regulations of the Board of Public Utilities for the purpose, among others, of constructing, maintaining and operating a Water Distribution System; and

WHEREAS, **Aqua** is planning to construct a water line on Little Mill Road to the intersection of Blackwood-Clementon Road to service Properties in the Township of Gloucester; and

WHEREAS, in discussions with the **Authority**, **Aqua** has indicated a willingness to provide service to residents of the Borough of Pine Hill situated on the opposite side of Little Mill Road and to extend this Water Main along Carol Drive in the Borough to Pine Hill to provide water service to these residents since the **Authority** does not presently

have the ability to provide public water service to this area, said area particularly described on Exhibit "A" attached hereto; and

WHEREAS, the *Authority* has no objection to permitting *Aqua* to extend its Franchise to said area to provide water service to these residents within the jurisdiction of the *Authority*; and

WHEREAS, the consent of the Governing Body of the Borough of Pine Hill is also required in order for the *Authority* to permit *Aqua* to extend its Franchise to said area to provide water service to residents within its political boundaries, said consent having been received and attached hereto as Exhibit "B".

NOW, THEREFORE, for and in consideration of the signing of this *Agreement* by the respective parties, and in further consideration of the terms and covenants of this *Agreement*, and the mutual benefits to be gained by the parties hereto, the parties do hereby agree as follows:

1. The *Authority* hereby agrees and consents to permit *Aqua* to extend its Franchise into the area described on Exhibit "A" in order to provide water service to residents of the Borough of Pine Hill through the construction of a water line on and along Little Mill Road and Carol Drive.

2. The residents on and along Little Mill Road and Carol Drive shall not be mandated to connect into said water line, but said connection shall be voluntary on the part of the residents.

3. All residents on and along Little Mill Road and Carol Drive who determine to connect into the water line to be constructed by *Aqua* shall be required to

comply with all Rules and Regulations imposed by *Aqua* for making said connecting for receiving water service.

4. All residents making connection into said water line shall become a customer of *Aqua* and become subject to the rates and charges imposed by *Aqua* for providing water service, which rates shall be assessed pursuant to the approval of the Board of Public Utilities of the State of New Jersey.

5. *Aqua* agrees that it shall be the responsible party to construct the water main on and along Little Mill Road and Carol Drive as shown on Exhibit "A". *Aqua* shall be the party required to obtain all necessary Approvals and Permits from all regulatory agencies for the construction of said water line and to pay all costs associated with the Approvals and Construction.

6. Upon completion of construction, *Aqua* shall advise the *Authority* of the availability of the water line for connection by the residents in and along Little Mill Road and Carol Drive. At such time, the *Authority* shall provide written notice to all effected residents of the availability of said water line for connection on a voluntary basis and that upon said connection the residents shall become a customer of *Aqua* and become subject to its rates, rules and regulations.

7. Any resident connecting into the water main constructed by *Aqua* shall be responsible for the cost of running the lateral from their Property to the water main, together with all other costs and expenses normally associated with such a connection. All connections into the water line must be made under the supervision of a New Jersey licensed plumber and inspected by the Borough Plumbing Sub Code Official.

8. The Title to all Facilities constructed by *Aqua* on and along Little

Mill Road and Carol Drive shall remain in the name and ownership of *Aqua*. *Aqua* shall be the responsible party for the repair, the replacement and maintenance of the water line constructed pursuant to this *Agreement* and *Aqua* shall provide and maintain insurance as applicable on said water line.

9. *Aqua* shall have the right to seek all legal remedies available for collection of any delinquent water service charges pursuant to its rates, rules and regulations.

10. In the event the *Authority* subsequently determines to extend and expand its water system to include this area as shown on Exhibit "A", the *Authority* shall provide one hundred eighty (180) days written notice to *Aqua* of its intent to provide water service to these residents. At such time as the *Authority* extends its water system to this area, *Aqua* shall then disconnect its water line from service to these residents. On the date of this disconnection, *Aqua* shall have no further Franchise rights to provide water service to these residents pursuant to this *Agreement* except for the collection of delinquent accounts, and this *Agreement* shall become null and void and of no further legal effect.

11. This *Agreement* is subject to *Aqua* receiving all necessary Approvals from the New Jersey Department of Environmental Protection and the Board of Public Utilities, including granting it the right to provide water service to residents of the Borough of Pine Hill pursuant to this *Agreement*.

12. This *Agreement* does not grant any additional Franchise or Franchise rights to *Aqua* nor is this *Agreement* intended to create such rights.

13. It is agreed and understood between the parties hereto that nothing herein

contained shall be construed to give *Aqua* any right, title or interest to or in any part or portion of the water distribution system of the *Authority*, or any of its appurtenances, additions, connections or equipment of the system.

14. This *Agreement* is made and is subject to the provisions of the outstanding Bond indentures of the *Authority* and the covenants thereof as the same may, from time to time, be interrupted by Bond Counsel to the *Authority*. Nothing herein shall be construed in any manner which shall be inconsistent with any opinion rendered by the said Bond Counsel.

15. If any one or more of the terms or provisions of this *Agreement* shall be finally determined to be invalid or unenforceable by a Court of law, the remainder of the terms and conditions hereof shall not be effected thereby and shall continue to be enforceable in all respects.

16. This *Agreement* may not be assigned, except to a successor in interest, upon formal written notice to all parties hereto.

17. This *Agreement* shall be governed by and construed in accordance with the laws of the State of New Jersey and shall enure to the benefit of the parties hereto and their successors and assigns.

18. This *Agreement* represents the entire understanding between the parties and may only be amended or modified by writing executed by all parties hereto.

19. Each party represents that it has been duly authorized by appropriate Resolution to execute this *Agreement*.


IN WITNESS WHEREOF, the parties hereto have caused this *Agreement* to be duly executed and delivered by their respective Officers duly authorized and have caused

their respective Corporate Seals to be affixed and duly attested, all as of the date first above written.

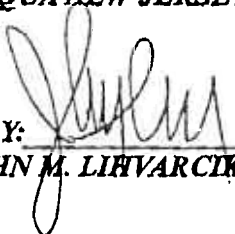
**PINE HILL MUNICIPAL
UTILITIES AUTHORITY**

BY: 
ROBERT A. WHIPPS, CHAIRMAN

ATTEST:


**DEBRA CORSON
RECORDING SECRETARY**

AQUA NEW JERSEY, INC.

BY: 
JOHN M. LITVARCIK, VICE PRESIDENT

ATTEST:
